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STATUTORY INSTRUMENTS

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**2005 No. 1923**

**The Occupational Pension Schemes (Equal Treatment) (Amendment) Regulations 2005**

**PART 3**

**EQUAL TREATMENT RULE: ARMED FORCES SCHEMES**

**Claims by pensioner members relating to contraventions of terms as to treatment**

**11.**—(1) In the case of a claim that—

- (a) is made in respect of a contravention of a term of an armed forces scheme that relates to the terms on which members of the scheme are treated; and
- (b) is made by a pensioner member,

the following provisions of the Equal Pay Act shall have effect as if they were modified (or, in the case of section 7A, further modified) as follows.

(2) In section 7A for subsection (9) substitute—

“(9) A woman who is a pensioner member shall not be entitled, in proceedings on a complaint in respect of the claim, to be awarded any payment by way of arrears of benefits or damages or any other financial award—

- (a) in proceedings in England and Wales, in respect of a time earlier than the arrears date (determined in accordance with section 7AB below);
- (b) in proceedings in Scotland, in respect of a time before the period determined in accordance with section 7AC below.

(9A) Where a court or employment tribunal awards a payment by way of arrears of benefits or damages, or makes any other financial award, the employer shall provide any such resources to the armed forces scheme as are specified in subsection (9B) below.

(9B) The resources referred to in subsection (9A) above are such additional resources, if any, as may be necessary for the scheme to secure to the pensioner member the payment of the amount awarded or other financial award made, without contribution or further contribution by the pensioner member or by other members of the scheme.”.

(3) In section 7AB (“arrears date” in proceedings in England and Wales under section 7A(9))—

(a) for subsection (1) substitute—

“(1) This section applies for the purpose of determining the arrears date, in relation to an award of any payment by way of arrears of benefits or damages or any other financial award in relevant proceedings in England and Wales in respect of a woman, for the purposes of section 7A(9)(a) above.

(1A) In subsection (1) above “relevant proceedings” means proceedings on a complaint in respect of the terms on which members of an armed forces scheme are treated.”; and

- (b) in subsection (2), in paragraph (a) of the definition of “concealment case” for the words “the employer” substitute “the employer or the managers of the armed forces scheme”.
- (4) In section 7AC (determination of “period” in proceedings in Scotland under section 7A(9))—
  - (a) for subsection (1) substitute—
    - “(1) This section applies, in relation to an award of any payment by way of arrears of benefits or damages or any other financial award in relevant proceedings in Scotland in respect of a woman, for the purposes of determining the period mentioned in section 7A(9) (b) above.
    - (1A) In subsection (1) above “relevant proceedings” means proceedings on a complaint in respect of the terms on which members of an armed forces scheme are treated.”; and
  - (b) in subsection (2)(a), for the words “the employer or any person acting on his behalf” substitute “the employer, the managers of the armed forces scheme or any person acting on his or their behalf.”